

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MATT RAVENELL, et al., individually
and on behalf of all other persons similarly
situated,

Plaintiffs,

- against -

AVIS BUDGET GROUP, INC. et al.,

Defendants.

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TOWNES, United States District Judge:

MEMORANDUM & ORDER
08-CV-2113 (SLT) (SMG)

On November 2, 2011, Avis Budget Group, Inc. and AVIS Rent a Car System, LLC (collectively, "Defendants") moved under FED. R. CIV. P. 37(d) to dismiss opt-in plaintiff Sharif Butt from this Fair Labor Standards Act action. The motion was referred to Magistrate Judge Steven M. Gold for a report and recommendation ("R&R") on November 7, 2011. Judge Gold issued an R&R on January 27, 2012 recommending that this Court dismiss plaintiff Butt's claims without prejudice to refile. This Court adopts Judge Gold's R&R in its entirety.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. *See* 28 U.S.C. § 636(b)(1). Within fourteen days of service of the recommendation, any party may file written objections to the magistrate's report. *See id.* Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendation. *See id.*

The Court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of the R&R to which no objections have been made. *See Thomas v. Arn*, 474 U.S. 140, 150, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985). In addition, failure to file

timely objections may waive the right to appeal this Court's order. *See* 28 U.S.C. § 636(b)(1); *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

In the instant case, objections to the R&R were due by February 16, 2012. No objections were filed with this Court. Upon review, this Court affirms and adopts the R&R of Judge Gold in its entirety. Accordingly, Defendants' motion is granted and opt-in plaintiff Sharif Butt's claims are dismissed without prejudice to refile.

SO ORDERED.

s/ SLT

SANDRA L. TOWNES
United States District Judge

Dated: *April 4*, 2012
Brooklyn, New York